

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

AUTO-OWNERS INSURANCE CO.,

Plaintiff,

Case No. 1:05-CV-659

v

Hon. Hugh W. Brenneman, Jr.

ELECTROLUX NORTH AMERICA, INC.,

Defendant.

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**ORDER**

Pending before the court is Plaintiffs' Motion to Compel Answers (docket no. 56).

At the time the motion was filed, there were a substantial number of discovery requests by plaintiff that had not been responded to by defendants. Prior to the hearing, however, defendant supplied a number of documents, as well as a set of answers to interrogatories, mooted the motion to a considerable extent. Unfortunately, due to some difficulties with email, plaintiff's counsel had not had an opportunity at the time of the hearing to adequately review the response filed by the defendants. Upon hearing arguments of counsel, there appears some question as to what documents, if any, may still exist following the closure of a plant. It became apparent during the course of the hearing that the present motion was a poor vehicle for resolving several aspects of the remaining discovery plaintiff seeks. This is due in large part because defendant's fact witness, a Mr. James Zgoda has yet to be deposed.

Accordingly, the plaintiffs' motion to compel is DENIED without prejudice to plaintiff refiling the motion in light of the discovery that has been produced, and with the understanding that Mr. Zgoda may be deposed by the parties, and such a deposition will be a prerequisite to refiling the motion.

IT IS SO ORDERED.

Dated: November 17, 2006

/s/ Hugh W. Brenneman, Jr.  
Hugh W. Brenneman, Jr.  
United States Magistrate Judge